

Application No. 10/626,298
Amendment dated February 28, 2005
Reply to Office Action of November 30, 2004

REMARKS / ARGUMENTS

It is asserted that applicant has not fully complied with the conditions for receiving benefit of an earlier filing date under 35 U.S.C. §120. The specification has been amended in the manner recited above to update the parent application data. It is respectfully submitted that the amendment to the specification traverses the instant objection.

Claims 1-20 were pending in the above-captioned patent application at the time of the Office Action. The Office Action allows claims 14-20. Claims 1-9 and 13 are rejected. Claims 10-12 are objected to but would be allowable if rewritten in independent form. In response to the rejections, applicant amends claims 1, 3 and 6 to traverse the rejections. Each specific ground of rejection is addressed below.

Applicant additionally amends claims 1, 10 and 14 for formal reasons apart from patentability. In particular, applicant amends claims 1, 10 and 14 to recite positioning the offset outlet leg in the main well bore adjacent to and in fluid communication with the offset well bore extending from the main well bore. This amended claim language more closely corresponds to the embodiments of the invention shown in the drawings and described in the specification.

Rejections Under 35 U.S.C. §102

Claims 9 and 13 have been rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 2,745,497 to Dale et al. It is respectfully submitted that claims 9 and 13 traverse the instant ground of rejection by reciting limitations not disclosed in Dale et al. "... [A]nticipation requires that all of the elements and limitations of the claim are found within a single prior art reference." *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 18 USPQ2d 1001, 18 USPQ2d 1896 (Fed. Cir. 1991).

Claims 9 and 13 of the instant application both require pressure stimulating a well bore. In particular, claims 9 and 13 recite pressure stimulating the main well bore through the main outlet leg while maintaining fluid communication between the inlet leg, the main outlet leg and the offset outlet leg. Pressure stimulation is a well bore treatment process,

Application No. 10/626,298
Amendment dated February 28, 2005
Reply to Office Action of November 30, 2004

whereby a stimulation fluid is applied to the rock in the well bore at high pressure. The object of pressure stimulation is to increase the permeability of the well bore to hydrocarbon fluids subsequently produced into the well bore from the surrounding formation or to increase the permeability of the well bore to injection fluids subsequently injected from the well bore into the surrounding formation. Pressure stimulation often entails fracturing, and optionally propping, the rock of the well bore to increase its permeability. The effect of the pressure stimulation treatment process on the ambient pressure of the surrounding formation, if any, is typically negligible and incidental to the desired objective of increasing the permeability of the well bore and plays no role in the pressure stimulation treatment process itself.

In contrast, Dale et al. discloses *pressurizing a formation* at col. 3, lines 61-75 and col. 1, lines 27-31, while lacking any disclosure of *pressure stimulating a well bore*. In accordance with the formation pressurization process of Dale et al., a pressurizing fluid is injected into a formation pressurizing well. The pressurizing fluid is not intended to fracture the rock of the well bore in the formation pressurizing well (i.e., pressure stimulate the well bore), but instead passes through the well bore and migrates out into the formation. The object of Dale et al. is to maintain or increase the pressure of the formation, thereby providing a sufficient formation pressure to desirably produce hydrocarbon fluids residing in the formation at one or more hydrocarbon production wells which are remotely positioned from the formation pressurizing well. As such, it is readily apparent that formation pressurization taught by Dale et al. is distinguishable from pressure stimulation recited in the instant claims 9 and 13 at issue. Accordingly, the instant grounds of rejection are traversed.

Rejections Under 35 U.S.C. §103

Claims 1-8 have been rejected under 35 U.S.C. §103(a) as being unpatentably obvious over U.S. Patent 5,322,127 to McNair et al. in view of U.S. Patent 4,850,431 to Austin et al. It is respectfully submitted that claim 1 as amended traverses the instant

Application No. 10/626,298
Amendment dated February 28, 2005
Reply to Office Action of November 30, 2004

ground of rejection. Amended claim 1 requires the use of a template, which includes *inter alia* at least one by-pass tube, in a pressure stimulation process for an offset well bore. Both McNair et al. and Austin et al. are devoid of any express recitation or suggestion of using a template having the above-recited by-pass tube in a pressure stimulation process. Thus, the teaching of McNair et al. in combination with Austin et al. is insufficient to render claim 1 obvious. Claims 2-8 are likewise allowable as depending directly on allowable claim 1.

The remaining prior art references made of record and not relied upon have been considered by applicant, but are not deemed sufficient to render the instant pending claims unpatentably obvious.

Conclusion

In conclusion, applicant respectfully asserts that all pending claims 1-20 in the instant patent application are allowable for the reasons set forth above. Accordingly, an early notice of allowance is earnestly solicited. The Examiner is requested to call the undersigned at (858) 272-8705 for any reason that would advance the instant application to issue.

Respectfully submitted,



Rodney F. Brown
Attorney for Applicant
Registration No. 30,450

3365 Baltimore Street
San Diego, California 92117
Telephone: (858) 272-8705

RFB:002P9913.D02A